CERTICOM CORP. and CERTICOM PATENT HOLDING CORP.,

Plaintiff,

Civil Action No. 2-07-CV-216(TJW)

v.

SONY CORPORATION, SONY CORPORATION OF AMERICA, SONY COMPUTER ENTERTAINMENT INC., SONY COMPUTER ENTERTAINMENT AMERICA INC., SONY PICTURES ENTERTAINMENT INC., SONY ELECTRONICS INC. and SONY DADC US INC..

Defendants.

CERTICOM'S APPLICATION FOR COMMISSION TO TAKE ORAL DEPOSITION OF JAPANESE WITNESSES

§

§

NOW COMES Certicom Corp. and Certicom Patent Holding Corp. (collectively, "Certicom"), and pursuant to Article 17 of the Unites States-Japan Consular Convention, requests that the Court issue a Commission for the Taking of Voluntary Oral Depositions of the following listed individuals at the United States Consulate General in Tokyo, Japan, commencing on or about February 2, 2009 and 8:30 a.m. and terminating on or about February 13, 2009 at 5:00 p.m.

- 1. Masato Hattori
- 2. Satoshi Kitani
- 3. Katsumi Muramatsu
- 4. Tomoyuki Asano

The attorneys participating for Plaintiffs in the depositions will be from the law firm Ropes & Gray LLP of New York, New York, and attorneys for the Defendants who will participate in said depositions are from the law firm of Kenyon &

Kenyon LLP in New York, New York. A list of the attendees is attached as Exhibit 1 to this application.

WHEREFORE, ALL PREMISES CONSIDERED, Plaintiffs request that a

Commission be issued by the Court pursuant to Article 17 of the United States-Japan Consular Convention.

Respectfully submitted,

Dated: January 8, 2009 ROPES & GRAY LLP

By: Robert C. Morgan (admitted *pro hac vice*)

Laurence S. Rogers (admitted pro hac vice)

Khue V. Hoang (admitted *pro hac vice*)

Matthew A. Traupman (admitted pro hac vice)

1211 Avenue of the Americas New York, New York 10036-8704

Telephone: (212)596-9000 Facsimile: (212)596-9090

James E. Hopenfeld (admitted *pro hac vice*)

One Metro Center 700 12th St., N.W. Washington, DC 20005

Telephone: (202)508-4600 Facsimile: (202508-4650

THE ROTH LAW FIRM

Carl R. Roth

Texas Bar No. 17312000

Brendan C. Roth

Texas Bar No. 24040132

Amanda A. Abraham

Texas Bar No. 24055077

115 N. Wellington, Suite 200

Marshall, Texas 75670

Telephone: (903)935-1665

Facsimile: (903)935-1797

Attorneys for Plaintiffs Certicom Corp. and Certicom Patent Holding Corp.

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) this 8th day of January, 2009. Any other counsel of record will be served by facsimile transmission and/or first class mail.

Carl R. Roth